

REMARKS

Claims 1-24 are pending in the present application. Claims 1, 2, 7, 22, and 23 are amended to incorporate the Examiner's express suggestion. Claims 8-21 and 24 are amended to correct clerical errors in our previous amendment filed on February 26, 2004. In the previous amendment, several claim dependencies were inadvertently changed, without indication of these changes. This paper proposes to amend the claims to cancel the effect of the inadvertent claim dependency changes. Applicants respectfully submit that entry of the amendment would require only a cursory review by the Examiner. Therefore, the amendment may be entered. MANUAL OF PATENT EXAMINING PROCEDURE §714.13 (8th ed., rev. 1, Feb. 2003). Moreover, Applicants believe that correction of the inadvertent error constitutes good and sufficient reason why the amendment is necessary and was not earlier presented. 37 C.F.R. §1.116(c).

The May 25, 2004 Office Action rejected claims 1-7, 9-19, and 21-23 under 35 U.S.C. §103(a) as being unpatentable over Walton *et al.*, U.S. Patent Number 6,493,331 ("Walton" hereinafter) in view of Das *et al.*, U.S. Patent Number 6,721,834 ("Das" hereinafter). The Examiner further rejected claims 8 and 20 under 35 U.S.C. §103(a) as being unpatentable over Walton. The Examiner also rejected claim 24 under 35 U.S.C. §103(a) as being unpatentable over Walton in view of Das and in further view of Blanchette *et al.*, U.S. Patent Number 6,094,429 ("Blanchette").

Applicants respectfully respond to this Office Action.

All claims were rejected under 35 U.S.C. §103(a) as being unpatentable over Walton in combination with other art or in combination with information purportedly well-known in the art. The Walton patent has been assigned to Qualcomm, Inc. The present application was assigned to Qualcomm, Inc., at the time the present invention was made, as evidenced by the assignment document recorded in this case on June 22, 2001 on reel/frame 011916/0657.

Furthermore, Walton qualifies as prior art only under 35 U.S.C. 102(e), because it was first published on December 10, 2002, after the filing date of the present application. Walton does not preclude patentability of claims of the present application because 35 U.S.C. § 103(c) prevents the use of a commonly-assigned application as prior art under section 102(e):

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. § 103(c). See also MPEP §2146.

Because the claimed invention and the subject matter of Walton were both owned by Qualcomm, Inc., at the time the present invention was made, Walton should not be used as prior art under section 103.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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